

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

GEORGE EDWARD SISK,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:16-cv-01855-TWP-TAB
)	
MICHAEL PENCE,)	
MITCHELL E. DANIELS, JR.,)	
BRUCE LEMMON,)	
EDWIN G. BUSS,)	
MICHAEL BARNES,)	
BRIAN SMITH,)	
KENNETH GRAY,)	
INDIANA DEPARTMENT OF)	
CORRECTION,)	
)	
Defendants.)	

Entry Denying Motion to Proceed *in forma pauperis* and Directing Dismissal of Action

Plaintiff George Sisk did not prepay the filing fee for this action or seek leave to proceed *in forma pauperis*. In fact, Sisk is not entitled to proceed *in forma pauperis* because he has “struck out” under 28 U.S.C. § 1915(g), by filing at least three cases that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief can be granted.

In the Entry of July 14, 2015, the Court noted that Sisk has “struck out” and directed Sisk to pay the \$400.00 filing fee. Sisk has responded by contending that he has not struck out because one of the cases relied on for assessing a strike, *Sisk v. State*, 1:15-cv-1790-WTL-MJD, was not dismissed for failure to state a claim, but was instead dismissed without prejudice based on his motion to withdraw. But Sisk misunderstands the Court’s Entry. The Court noted that in 1:15-cv-1790-WTL-MJD, it was confirmed that Sisk has three previous strikes. The Court did not consider

the case 1:15-cv-1790-WTL-MJD as a strike upon which the three-strike determination was made. As the Court notified Sisk in No. 2:13-cv-407-WTL-MJD, Sisk brought the following cases which were dismissed in their entirety for failure to state a claim upon which relief can be granted:

- *Sisk v. Osburn*, 2:13-cv-122-WTL-WGH (S.D. Ind. May 10, 2013)(dismissing action pursuant to 28 U.S.C. § 1915A(b));
- *Sisk v. United States*, 2:13-cv-312-WTL-WGH (S.D. Ind. November 20, 2013) (dismissing action pursuant to 28 U.S.C. § 1915A(b)); and
- *Sisk v. Indiana*, 2:13-cv-383-JMS-WGH (S.D. Ind. Nov. 14, 2013) (dismissing action pursuant to 28 U.S.C. § 1915A(b)).

With due respect to Sisk, unfortunately, because he has three strikes, he is not entitled to proceed *in forma pauperis*. He was given a period of time in which to pay the filing fee for this action, but has failed to do so. This action must therefore be dismissed for failure to prosecute based on his failure to pay the filing fee as directed. Further, because has been notified of his three-strike status on several occasions, including in the Entry of July 14, 2016, in this case, but still moved to proceed *in forma pauperis* this action must now be **dismissed**. *Sloan v. Lesza*, 181 F.3d 857, 859 (7th Cir. 1999)(“An effort to bamboozle the court by seeking permission to proceed *in forma pauperis* after a federal judge has held that § 1915(g) applies to a particular litigant will lead to immediate termination of the suit.”). The Motion for Leave to Proceed in *Forma Pauperis* (Dkt. 4) is **DENIED**.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 8/15/2016



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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